

MARTHA M. FINDEISS

IBLA 80-374

Decided October 16, 1980

Appeal from a decision of the Utah State Office, Bureau of Land Management, rejecting appellant's oil and gas lease offer U 44402.

Affirmed.

1. Oil and Gas Leases: Generally--Oil and Gas Leases: Applications:
Generally--Oil and Gas Leases: Lands Subject To

It is proper for the Bureau of Land Management to reject an over-the-counter offer for an oil and gas lease of land formerly included in a lease which expired by operation of law at the end of its primary term, because under 43 CFR 3112.1-1 land in an expired lease is subject to the filing of new lease offers only in accordance with simultaneous filing procedures.

APPEARANCES: Ted C. Findeiss, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Martha M. Findeiss, hereinafter appellant, appeals from the January 4, 1980, decision of the Utah State Office, Bureau of Land Management (BLM), rejecting her over-the-counter oil and gas lease offer.

Appellant filed oil and gas lease offer U 44402 on November 11, 1979, subject to the Mineral Leasing Act of August 1, 1947 (61 Stat. 913), as amended. The offer to lease was subsequently rejected by the decision of January 4, 1980, indicating that the lands applied for can only be leased under the regulations governing the simultaneous process, 43 CFR 3112.1-1(a).

The lands in question were previously part of oil and gas lease U-8188 which had been issued on May 1, 1969. Appellant determined from BLM's records that the prior lease had terminated at the end of its primary term on April 30, 1979, and had not been extended. There was no indication that the parcel had been removed from leasing or that it was unavailable for leasing. Thus, appellant made an over-the-counter offer, U 44402, to BLM for the parcel.

[1] 43 CFR Subpart 3112, Simultaneous Offers, section 3112.1-1, Availability of Lands, provides in pertinent part:

All lands covered by leases which expire by operation of law at the end of their primary or extended term shall likewise be subject to the filing of new lease offers only in accordance with the provisions of this section except that notation of such expiration of the leases need not be made on the official records.

The land in question was previously covered by a lease which ended by operation of law at the end of its primary term April 30, 1979. Noncompetitive oil and gas leases are issued for a primary term of 10 years. Unless one of the statutory grounds for extension is established, such leases expire by operation of law at the end of their primary term. James E. Grohoski, 43 IBLA 94 (1979). Pursuant to 43 CFR 3112.1-1, all lands covered by leases which expire by operation of law at the end of their primary term shall be subject to the filing of new lease offers only in accordance with simultaneous filing procedures. Thus, it was proper for the Bureau of Land Management to reject an over-the-counter offer for an oil and gas lease of land formerly included in a lease which expired by operation of law at the end of its primary term, because under 43 CFR 3112.1-1 land in an expired lease is subject to the filing of new competitive lease offers only in accordance with simultaneous filing procedures. David A. Provinse, 35 IBLA 217 (1978).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

